

Executive Registry
77-6743/2

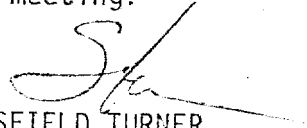
1 38.2

28 MAR 1977

MEMORANDUM FOR: Legislative Counsel
FROM: Director of Central Intelligence
SUBJECT: Meeting with Senator Inouye

1. I discussed Senator Inouye's letter of 15 March requesting my evaluation of our ability to verify strategic arms limitations or agreements. I suggested that we do this orally rather than in writing. He agreed and said that he would have a meeting of just the Committee members.

2. Please arrange a date for such a meeting.


STANSFIELD TURNER
Admiral, U.S. Navy

cc: DDCI
D/DCI/IC
Howard Stoertz

EX-100

1 38.2

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

TRANSMITTAL SLIP		22 Mar 1977
TO: ER		
ROOM NO. 7E12	BUILDING Hqs	
REMARKS: <i>(1) Executive Secretary</i> <i>(2) ER via R.B.</i>		
FROM: OLC		
FORM NO. 6C19	BUILDING Hqs	EXTENSION

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OLC 77-1058/a

24 MAR 1977

Honorable Daniel K. Inouye, Chairman
Select Committee on Intelligence
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I have your letter of March 15, 1977 to Admiral Turner regarding the capability of the Intelligence Community to verify present and possible future strategic arms limitations agreements. My staff, in conjunction with the Intelligence Community staff, is looking into this matter and we will respond as soon as all appropriate agencies have been consulted.

Sincerely,

SIGNED *llm*

for George L. Cary
Legislative Counsel

Distribution:

Original - Addressee

1 - SA-D/DCI/IC

1 - ER

EXECUTIVE REGISTRY FILE C-38.2



TO: <i>OKC</i>		
ROOM NO.	BUILDING	
REMARKS: <i>Note Del's question</i>		
FROM: <i>SA/DCI</i>		
ROOM NO.	BUILDING	EXTENSION

FORM NO. 241
1 FEB 55

REPLACES FORM 36-8
WHICH MAY BE USED.

(47)

C-38.2

EXECUTIVE SECRETARIAT

Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
1	DCI		✓	3/23/77	
2	DDCI		✓		
3	D/DCI/IC		✓		
4	DDS&T		✓		
5	DDI		✓		
6	DDA				
7	DDO				
8	D/DCI/NI		✓		
9	GC				
10	LC	✓			
11	IG				
12	Compt				
13	D/Pers				
14	D/S				
15	DTR				
16	Asst/DCI				
17	AO/DCI				
18	C/IPS				
19	DCI/SS				
20	D/EE0				
21					
22					

SUSPENSE 24 MAR 77
Date

Remarks:

Can we find them our chart?

18 MAR 77
Date

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

25X1

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

EXECUTIVE SECRETARIAT

Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
1	DCI		X		
2	DDCI		X		
3	D/DCI/IC		X		
4	DDS&T				
5	DDI				
6	DDA				
7	DDO		X		
8	D/DCI/NI				
9	GC		X		
10	LC	X			
11	IG				
12	Compt				
13	D/Pers				
14	D/S				
15	DTR				
16	Asst/DCI				
17	AO/DCI				
18	C/IPS				
19	DCI/SS				
20	D/EE0				
21			X		
22					
SUSPENSE		30 March 1977			
		Date			

Remarks:

Prepare DCI response, please.

A/Executive Secretary

26 March 1977

DANIEL K. INOUE, HAWAII, CHAIRMAN
BARBARA GOLDWATER, ARIZONA, VICE CHAIRMAN

BIRCH BAYH, IND.
ADLAI E. STEVENSON, ILL.
WILLIAM D. HATHAWAY, MAINE
WALTER D. HUDDLESTON, KY.
JOSEPH R. BIDEN, JR., DEL.
ROBERT MORGAN, N.C.
GARY HART, COLO.
DANIEL PATRICK MOYNIHAN, N.Y.

CLIFFORD P. CASE, N.H.
JAKE GARN, UTAH
CHARLES MCC. MATHIAS, JR., MD.
JAMES B. PEARSON, KANS.
JOHN H. CHAFFEE, R.I.
RICHARD G. LUGAR, IND.
MALCOLM WALLOP, WYO.

WILLIAM G. MILLER, STAFF DIRECTOR
MICHAEL J. MADIGAN, MINORITY COUNSEL

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

77-816

United States Senate

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 400, 94TH CONGRESS)

WASHINGTON, D.C. 20510

March 25, 1977

IN REPLY PLEASE
REFER TO R#7283

Mr. E. Henry Knoche
Deputy Director of Central Intelligence
Central Intelligence Agency
Washington, D. C. 20505

Dear Hank:

I have enclosed a copy of an amended version of S. 3197, which has been provided to the Department of Justice. It is clearly the belief of the staff that a bill governing electronic surveillance should go forward at this time without the provisions which you will find in this draft relating to mail opening and surreptitious search and seizure.

I would like very much to set up, at your earliest convenience, a meeting between you and John Elliff, who will be serving as Senator Bayh's principal staffer in this area.

Very truly yours,

Elliot E. Maxwell

Enclosure

(ENCLOSURE)

C-38.24

CONGRESS

SESSION

S.

(Note.-- Fill in all blank lines except those provided for the date, number, and reference of bill.)

IN THE SENATE OF THE UNITED STATES

Mr.

Introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend title 18, United States Code, to authorize applications for a court order approving the use of certain investigative techniques to obtain foreign intelligence information.

(Insert title of bill here)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Foreign Intelligence Investigations Act of 1977."

SEC. 2. Title 18, United States Code, is amended by adding a new chapter after 119 as follows:

"CHAPTER 120. -- WARRANT PROCEDURES IN FOREIGN INTELLIGENCE INVESTIGATIONS.

"Sec.

"2521. Definitions.

"2522. Authorizations for certain investigative techniques for foreign intelligence purposes.

"2523. Designation of judges authorized to grant orders for certain investigative techniques.

"2524. Application for an order.

"2525. Issuance of an order.

"2526. Use of information.

"2527. Report of certain investigative techniques.

"2528. Common carriers."

-2-

"§2521. Definitions

"(a) Except as otherwise provided in this section the definitions of section 2510 of this title shall apply to this chapter.

"(b) As used in this chapter --

"(1) 'Foreign power' means --

"(A) a foreign government or any component thereof, whether or not recognized by the United States;

"(B) a faction of a foreign nation or nations, not substantially composed of United States persons;

"(C) an entity, which is directed and controlled by a foreign government or governments which is engaged in terrorist, sabotage, or clandestine intelligence activities or which is not substantially composed of United States persons;

"(D) a foreign-based terrorist group not substantially composed of United States persons;
or

"(E) a foreign-based political organization, not substantially composed of United States persons.

"(2) 'Agent of a foreign power' means --

"(A) a person who is not a United States person and who is an officer or employee of a foreign power;

"(B) a person who --

"(1) pursuant to the direction of foreign power, knowingly engages in-
er knowingly-acts-in-furtherance-of, in
terrorist activities for or on behalf of a foreign power,

-3-

"(ii) knowingly conspires with, aids, or abets such a person, engaged in terrorist activities for or on behalf of a foreign power;

"(C) a person who --

"(i) pursuant to the direction of a foreign power, knowingly engages in, or ~~knowingly-acts-in-furtherance-of~~ sabotage activities for or on behalf of a foreign power, or

"(ii) knowingly conspires with, aids, abets such a person ~~knowing-that-such-person~~ is engaged in such sabotage activities for or on behalf of a foreign power;

"(D) a person who --

"(i) pursuant to the direction of a foreign power, knowingly engages in clandestine intelligence activities for or on behalf of a foreign power, which activities involve or will soon involve a violation of the criminal statutes of the United States or will substantially harm the security of the United States, or

"(ii) knowingly conspires with, aids or abets such a person engaged in such clandestine intelligence activities for or on behalf of a foreign power.

"(3) 'Terrorist activities' means activities which --

"(A) are violent and dangerous to human life;

"(B) violate a Federal or State criminal statute, or if such activities have been or will

-4-

be conducted outside the United States, would
be criminal under the laws of the United States
or any state if committed within its jurisdiction;
and

"(C) appear to be intended --

"(1) to intimidate or coerce the
civilian population, or

(ii) to influence the policy of a
government by intimidation or coercion.

"(4) 'Sabotage activities' means activities pro-
hibited by Title 18, United States Code, chapter 105.

"(5) 'Clandestine intelligence activities' means
the collection or transmission of information related
to national defense or foreign policy, the fact or
purpose of which collection is concealed or attempted
to be concealed.

"(6) 'Foreign intelligence information or material
means --

"(A) information or material which relates
to, and is necessary to the ability of the United
States to protect itself against, actual or poten-
tial attack or other grave hostile acts of a
foreign power or an agent of a foreign power;

"(B) information or material with respect
to a foreign power or foreign territory, which
relates to, and because of its importance is
essential to --

"(i) the national defense or the
security of the Nation, or

"(ii) the conduct of the foreign
affairs of the United States;

-5-

"(C) information or material which relates to, and is necessary to the ability of the United States to protect against, the terrorist activities of a foreign power or an agent of a foreign power;

"(D) information or material which relates to, and is necessary to the ability of the United States to protect against, the sabotage activities of a foreign power or an agent of a foreign power; or

"(E) information or material which relates to, and is necessary to the ability of the United States to protect itself against, the clandestine intelligence activities of an intelligence service or network of a foreign power or an agent of a foreign power;

"(7) 'Electronic surveillance' means --

"(A) the purposeful selection for monitoring, on the basis of name, or other personal data which identifies a United States person which would result in the acquisition by an electronic, mechanical or other surveillance device, of the contents of any communication made with a reasonable expectation of privacy to or from such United States person, without the consent of any party thereto;

"(B) the acquisition by an electronic, mechanical, or other surveillance device, of the contents of a wire communication to or from a person which is not a foreign power without the consent of any party thereto, where such acquisition occurs in the United States while the communication

-6-

is being transmitted by wire;

"(C) the acquisition, by an electronic, mechanical, or other surveillance device, of the contents of a radio communication, to or from a person which is not a foreign power without the consent of any party thereto, made with a reasonable expectation of privacy, and where both the sender and all intended recipients are located within the United States; or

"(D) the installation or use of electronic, mechanical or other surveillance device to be used against a person which is not a foreign power in the United States or against a United States person for the purposeful acquisition of information other than from or related to a radio or wire communication under circumstances in which a person has a reasonable expectation of privacy.

"(E) nothing in this definition or chapter is intended to affect Section 605 and 606 of title 47 of the United States Code or to limit or affect the signals intelligence activities of the United States Government involving the acquisition of communications by electronic, mechanical or other surveillance device not falling within the term 'electronic surveillance' as defined in this Act provided that --

"(i) all such acquisition or activities are conducted for foreign intelligence purposes; and

"(ii) an agency authorized to conduct such signals intelligence activities shall not disseminate information which is not

-7-

foreign intelligence information derived from such activities or acquisition which identifies a United States person without his consent unless the information pertains to a possible threat to the physical safety of any person.

"(8) 'Mail opening' means the inspection of the contents of first-class mail before such mail is delivered to the person to whom it is directed.

"(9) 'Surreptitious search and seizure' means the unconsented search of any private dwelling, or any other building or property in the United States, or outside of the United States if such search is directed at a United States person, in order to obtain any information or material, the fact or purpose of which search is concealed or attempted to be concealed.

"(10) 'United States person' means --

"(A) a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association the majority of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States or a majority of the stock of which is owned by citizens of the United States, aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but not including corporations which are foreign powers.

-8-

"(11) 'Attorney General' means the Attorney General of the United States or in his absence the Acting Attorney General.

"(12) 'Minimization procedures' means procedures to minimize the acquisition of information or material that is not foreign intelligence information or material, to assure that information or material which is not foreign intelligence information or material not be maintained, and to assure that information or material obtained not be used except as provided in section 2526.

"§2522. Authorization for certain investigative techniques for foreign purposes.

"Applications for a court order under this chapter are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to Federal judges having jurisdiction under section 2523 of this chapter, and a judge to whom an application is made may grant an order, in conformity with section 2525 of this chapter, approving electronic surveillance, mail opening, or surreptitious search and seizure targeted at a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information.

"§2523. Designation of judges authorized to grant orders for certain investigative techniques.

"(a) The Chief Justice of the United States shall publicly designate seven district court judges, each of whom shall have jurisdiction to hear applications for and grant orders approving electronic surveillance, mail opening, or surreptitious search and seizure anywhere within the United States under the procedures set forth in this chapter. except that no judge designated under this subsection shall

-9-

have jurisdiction of an application under this chapter which has been denied previously by another judge designated under this subsection. If any judge designated under this subsection denies an application for an order authorizing electronic surveillance, mail opening, or surreptitious search and seizure under this chapter, such judge shall provide immediately for the record a complete written statement of the reasons for his decision and, on motion of the United States, direct that the record be transmitted, under seal, to the special court of appeals review established in subsection (b). In the event of an appeal in the denial of an application made under this chapter, the judge denying the application shall be, for the purposes of the appeal, a respondent in the action with the right to assistance of counsel.

"(b) The Chief Justice shall publicly designate three judges, one of whom shall be publicly designated as the presiding judge, from the United States district courts or courts of appeals who together shall comprise a special court of review appeals which shall have jurisdiction to review the denial of any application made under this chapter. If such special court determines that the application was properly denied, On making its determination, the special court shall immediately provide for the record a complete written statement of the reasons for its decision and, on motion of the United States or of the respondent District Court judge, direct that the record be transmitted to the Supreme Court, which shall have jurisdiction to review such decision

"(c) All proceedings under this chapter shall be conducted as expeditiously as possible. The record of proceedings under this chapter, including applications made and orders granted, shall be sealed by the presiding judge and shall be

-10-

maintained under security measures established by the Chief Justice in consultation with the Attorney General.

"(d) The special court of review shall promulgate orders establishing the procedure for selecting to which judge designated under section 2523(a) each successive application under this chapter shall be submitted.

"(e) The Chief Justice shall designate judges under this chapter from among judges nominated by the Judicial Conference of the United States. Each judge designated shall so serve for a maximum of seven years and shall not be eligible for re-designation, provided that the judges first designated under subsection (a) shall be designated for terms of from one to seven years so that one term expires each year, and that judges first designated under subsection (b) shall be designated for terms of three, five, and seven years.

"§2524. Application for an order.

"(a) Each application for an order approving electronic surveillance, mail opening, or surreptitious search and seizure under this chapter shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 2523 of this chapter. Each application shall require the approval of the Attorney General based which may be granted only upon his finding that it satisfies the criteria and the requirements of such application as set forth in this chapter. It shall include the following information:

"(1) the identity of the Federal officer making the application;

"(2) the authority conferred on the applicant by the President of the United States and the approval of the Attorney General to make the application;

"(3) the identity or a characterization of the person or entity who is the target of the electronic

-11-

surveillance, mail opening, or surreptitious search and seizure;

"(4) a description of the facilities or place where the mail opening is to be conducted, or at which the electronic surveillance or surreptitious search and seizure is directed;

"(5) a statement of the facts and circumstances relied upon by the applicant to justify his belief that --

"(A) the target of the electronic surveillance, mail opening, or surreptitious search and seizure is a foreign power or an agent of a foreign power and

"(B) in the case of electronic surveillance or surreptitious search and seizure, the facilities or the place at which the electronic surveillance or surreptitious search and seizure is directed are being used, or are about to be used, by a foreign power or an agent of a foreign power;

"(6) a statement of the minimization procedures to be applied to minimize the acquisition, retention, and dissemination, and to require the expunging, of information relating to permanent resident aliens or citizens of the United States that is not foreign intelligence information; does not relate to the ability of the United States-

"(A) to protect itself against actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

"(B) to provide for the national defense or the security of the Nation;

-12-

"(C)--to-provide-for-the-conduct-of-the
foreign-affairs-of-the-United-States;

"(D)--to-protect-against-the-terrorist
activities-of-a-foreign-power-or-an-agent-of-a
foreign-power;

"(E)--to-protect-itself-against-the-clan-
destine-intelligence-activities-of-an-intelligence
service-or-network-of-a-foreign-power-or-an-agent
of-a-foreign-power;

except, that appropriate steps shall be taken
to insure that information or material maintained solely
because it is foreign intelligence information
or material as defined in section 2521(6)(B)(ii)
information-retained-solely-because-it-which
relates-to,-and-because-of-its-importance-is
deemed-essential-to-the-conduct-of-foreign
affairs shall not be maintained in such a manner
as to permit the retrieval of such information
or material by reference to a United States
person who is a party to a communication inter-
cepted as provided in this chapter, or identified
through mail opening or surreptitious search and
seizure conducted pursuant to this chapter.

"(6)--if-the-target-of-the-electronic-surveillance
is-a-foreign-power-which-qualifies-as-such-solely-on-the
basis-that-it-is-an-entity-controlled-and-directed-by
a-foreign-government-or-governments,-and-unless-there-is
probable-cause-to-believe-that-a-substantial-number-of-the
officers-or-executive-of-such-entity-are-officers-or
employees-of-a-foreign-government,-or-agents-of-a-foreign
power-as-defined-in-section-2521(2)(B),-(C),-(D),-or-(E),
a-statement-of-the-procedures-to-prevent-the-acquisition,

-13-

retention,--and-dissemination-and-to-require-the-expunging
 of-communications-of-permanent-resident-aliens-and
 citizens-of-the-United-States-who-are-not-officers-or
 executives-of-such-entity-responsible-for-these-areas
 of-its-activities-which-involve-foreign-intelligence
 information-

"(7) a factual description of the nature of the
 information or material sought, which in the case of
 surreptitious search and seizure shall particularly
 describe the information or material to be seized.

"(8) a certification or certifications by the
 Assistant-to-the-President-for-National-Security-Affairs
 or an executive branch official or officials designated
 by the President who is the incumbent or in his absence
the acting incumbent of one of the following offices:
Secretary of State, Secretary of Treasury, Secretary of
Defense, Assistant Secretary of Defense (Intelligence),
Director of the Arms Control and Disarmament Agency,
Director of the Energy Research and Development Agency,
Assistant to the President for National Security Affairs,
Director of Central Intelligence, Director of the Federal
Bureau of Investigation, Director of the National Security
Agency --

"(A) that the information or material sought
 is foreign intelligence information or material;

"(B) that the purpose of the surveillance,
 mail opening, or surreptitious search and seizure
 is to obtain foreign intelligence information or
 material;

"(C) that such information or material
 cannot feasibly be obtained by normal investigative
 techniques;

-14-

"(D) that such information or material is likely to be obtained by the technique for which approval is sought;

"(E) including a designation of the type of foreign intelligence information or material being sought according to the categories described section 2521(b)(6); and

"(F) including a statement of the basis for the certification that --

"(i) the information or material sought is the type of foreign intelligence information or material designated, and

"(ii) such information or material cannot feasibly be obtained by normal investigative techniques; and

"(iii) such information or material is likely to be obtained by the technique for which approval is sought;

"(9) a statement of the means by which the surveillance, mail opening, or surreptitious entry will be effected;

"(10) a statement of the facts concerning all previous applications that have been made to any judge under this chapter involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application; and

"(11) in the case of electronic surveillance or mail opening, a statement of the period of time for which the electronic surveillance or mail opening is required to be maintained. If the nature of the intelligence gathering is such that the approval of the use of electronic surveillance or mail opening under this chapter should not automatically terminate when the

-15-

described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter.

"(b) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

"(c) The judge may require the applicant to furnish such other information or evidence as may be necessary to make the determination required by section 2525 of this chapter.

"§2525. Issuance of an order.

"(a) Upon an application made pursuant to section 2524 of this title, the judge shall enter an ex parte order as requested or as modified approving the electronic surveillance, mail opening or surreptitious search and seizure if he finds that --

"(1) the President has authorized the Attorney General to approve applications for electronic surveillance, mail opening, or surreptitious search and seizure for the purpose of obtaining foreign intelligence information or material;

"(2) the application has been made by a Federal officer and approved by the Attorney General;

"(3) on the basis of the facts submitted by the applicant there is probable cause to believe that:

"(A) the target of the electronic surveillance, mail opening or surreptitious search and seizure is a foreign power or an agent of a foreign power; and

"(B) in the case of electronic surveillance or surreptitious search and seizure the facilities

-16-

or place at which the electronic surveillance or surreptitious search and seizure is directed are being used, or are about to be used, by a foreign power or an agent of a foreign power;

"(4) minimization procedures to be followed are reasonably designed to accomplish their purpose; minimize the-aquisition,-retention,-and-dissemination,-and-to require-the-expunging,-of-information-relating-to permanent-resident-aliens-or-citizens-of-the-United States-that-is-not-foreign-intelligence-information, does-not-relate-to-the-ability-of-the-United-States-

"(A)--to-protect-itself-against-actual-or potential-attack-or-other-grave-hostile-acts-of a-foreign-power-or-an-agent-of-a-foreign-power;

"(B)--to-provide-for-the-national-defense or-the-security-of-the-Nation;

"(C)--to-provide-for-the-conduct-of-the-foreign-affairs-of-the-United-States;

"(D)--to-protect-against-the-terrorist-activities-of-a-foreign-power-or-an-agent-of-a-foreign power;

"(E)--to-protect-itself-against-the-sabotage activities-of-a-foreign-power-or-an-agent-of-a foreign-power;-or

"(F)--to-protect-itself-against-the- clandestine-intelligence-activities-of-an-intelligence service-or-network-of-a-foreign-power-or-an-agent of-a-foreign-power;

except, that appropriate steps shall be taken to insure that information maintained solely because it is foreign intelligence information or material as defined in section 2521 (6)(B)(ii) information-retained-which

-17-

~~solely because it relates solely to, and because of its importance is deemed essential to the conduct of foreign~~ affairs, shall not be maintained in such a manner as to permit the retrieval of such information or material by reference to a United States person who is a party to a communication intercepted as provided in this chapter or identified through mail opening as surreptitious search and seizure conducted pursuant to this chapter;

~~"(5) -- if the target of the electronic surveillance is a foreign power which qualifies as such solely on the basis that it is an entity controlled and directed by a foreign government or governments; and unless there is probable cause to believe that a substantial number of the officers or executives of such entity are officers or employees of a foreign government, or agents of a foreign power as defined in section 2521(2)(B); (C); (D); or (E); procedures to be followed are reasonably designed to prevent the acquisition, retention, and dissemination; and to prevent the acquisition, retention, and dissemination; and to require the expunging of communications of permanent resident aliens and citizens of the United States who are not officers or executives of such entity responsible for those areas of its activities which involve foreign intelligence information.~~

"(5) the application which has been filed contains the description and certification or certifications, specified in section 2524(a) (7) and (8), and there is probable cause no compelling reason to believe that such certification or certifications are correct.

"(b) An order approving an electronic surveillance under this section shall --

"(1) specify --

-18-

"(A) the identity or a characterization of the person or entity who is the subject target of the electronic surveillance;

"(B) the nature and location of the facilities or the place at which the mail opening will be conducted or at which the electronic surveillance or surreptitious search and seizure will be directed;

"(C) the nature of information or material sought to be acquired including a particular description of the information or material to be seized through surreptitious search and seizure;

"(D) the means by which the electronic surveillance, mail opening, or surreptitious search and seizure will be effected; and

"(E) the period of time during which the electronic surveillance or mail opening is approved or the period of time in which the surreptitious search and seizure is to be carried out; and

"(2) direct --

"(A) that the minimization procedures be followed;

"(B) that, upon the request of the applicant, the Postal Service of the United States, a specified communication or other common carrier, a landlord, custodian, contractor, or other specified person may furnish the applicant forthwith any and all information, facilities, or technical assistance, necessary to accomplish the electronic surveillance, mail opening, or surreptitious search and seizure, and that such information, facilities, or technical assistance furnished must be provided in such manner

-19-

as will protect its secrecy and produce a minimum of interference with the services that such service carrier, landlord, custodian, contractor, or other such person is providing that target of electronic surveillance, mail opening, or surreptitious search and seizure, provided that a landlord, custodian, contractor or other specified person may decline to cooperate in the electronic surveillance, mail opening, or surreptitious search and seizure and shall be notified of the right to so decline; and

"(C) that the applicant compensate, at the prevailing rates, such carrier, landlord, custodian, or other person for furnishing such aid.

"(c) An order issued under this section may approve and electronic surveillance or mail opening for the period necessary to achieve its purpose, or for ninety days, whichever is less. Extensions of an order for electronic surveillance or mail opening issued under this chapter may be granted upon an application for an extension made in the same manner as required for an original application and after new findings required by subsection (a) of this section. In connection with the new finding of probable cause, the judge may require the applicant to submit information obtained pursuant to the original order or to any previous extensions, or any other information or evidence as he finds necessary to make such new findings. Each extension may be for the period necessary to achieve the purposes for which it is granted, or for ninety days, whichever is less.

-20-

"(d) An order authorizing a surreptitious search and seizure issued under this section shall specify a period of time, not to exceed ten days, which such search and seizure is to be carried out.

"(e) Notwithstanding any other provision of this chapter when the Attorney General reasonably determines that --

"(1) an emergency situation exists with respect to the employment of electronic surveillance, mail opening, or surreptitious search and seizure to obtain foreign intelligence information or material before an order authorizing such technique can with due diligence be obtained, and

"(2) the factual basis for issuance of an order under this chapter to approve such technique exists, he may authorize the emergency employment of such technique if a judge designated pursuant to section 2523 of this title is informed by the Attorney General or his designate at the time of such authorization that the decision has been made to employ the technique under emergency circumstances and if an application in accordance with this chapter is made to that judge as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes the employment of such technique. If the Attorney General authorizes such emergency employment of electronic surveillance, mail opening, or surreptitious search and seizure, he shall require that the minimization procedures required by this chapter for the issuance of a judicial order be followed. In the absence of a judicial order approving such technique, the surveillance, mail opening, or authority to conduct a surreptitious search and seizure shall terminate when the information sought is

-21-

obtained, when the application for the order is denied, or after the expiration of twenty-four hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance or mail opening is terminated or the surreptitious search and seizure is carried out without an order having been issued, no information obtained or evidence derived from such surveillance, mail opening, or surreptitious search and seizure shall be received in evidence or otherwise disclosed in any trial, hearing or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee or other authority of the United States, a State, or a political subdivision thereof. As provided in section 2523, a denial of the application may be appealed by the Attorney General, and an approval of the application by the Special Court of Appeals established in section 2524 may be appealed by the respondent District Court judge.

"(f) A judge denying an order under this section or a panel affirming or overruling such denial under section 2523(b) shall state the reasons therefor.

"§2526 Use of information.

"(a) Information or material acquired from an electronic surveillance conducted pursuant to this chapter may be used and disclosed by Federal officers and employees only for the enforcement of the criminal law or for purposes relating to the ability of the United States:

"(1) to protect itself against actual or potential attack or other grave hostile acts of a foreign power or agent of a foreign power;

-22-

"(2) to provide for the national defense or the security of the Nation;

"(3) to provide for the conduct of the foreign affairs of the United States;

"(4) to protect against the terrorist activities of a foreign power or agent of a foreign power;

"(5) to protect itself against the sabotage activities of a foreign power or agent of a foreign power; or

"(6) to protect itself against the clandestine intelligence activities of an intelligence service or network of a foreign power or agent of a foreign power.

No information or material acquired from an electronic surveillance conducted pursuant to, or in violation of this chapter, may be disclosed to anyone except to a Federal or state officer or an officer of a foreign government for the purposes specified in this subsection, or to such persons as are necessary, including a potential victim, to prevent a crime of violence, or to a Committee of the Congress for purposes of congressional oversight, or to a court for purposes of judicial proceedings.

No otherwise privileged communication obtained in accordance with or in violation of, the provisions of this chapter shall lose its privileged character.

"(b) The minimization procedures required under this chapter shall not preclude the retention and disclosure, for law enforcement purposes, of any information or material which constitutes evidence of a crime if such disclosure is accompanied by a statement that such evidence, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

"(c) No information or material obtained or derived from an electronic surveillance, mail opening, or surreptitious

-23-

search and seizure shall be received in evidence or otherwise used or disclosed in any trial, hearing, or other proceeding in a Federal or State court unless, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to disclose the information or material or submit it in evidence in the trial, hearing, or other proceeding, the government notifies the court of the source of the information or material and the court, ~~in-camera-and-exparte~~, determines that the surveillance, mail opening, or surreptitious search and seizure was authorized and conducted in a manner that did not violate any right afforded by the Constitution and statutes of the United States to the person against whom the evidence is to be introduced. In making such a determination, the court, after reviewing a copy of the court order and accompanying application in camera, shall order disclosed to the person against whom the evidence is to be introduced the order and application, or portions thereof, if it finds that there is a reasonable question as to the legality of the surveillance and that such disclosure would promote a more accurate determination of such legality or that such disclosure would not harm the national security.

"(d) Any person who has been a subject of electronic surveillance, mail opening, or surreptitious search and seizure and against whom evidence derived from such electronic surveillance, mail opening, or surreptitious search and seizure is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or proceeding in or before any court, department officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress any information or material acquired by such technique, or evidence derived therefrom, on the grounds that --

-24-

"(1) the information or material was lawfully intercepted or seized;

"(2) the order of authorization or approval under which it was intercepted or seized is sufficient on its face; or

"(3) the interception or seizure was not in conformity with the order of authorization or approval.

Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the information or material acquired by such technique or evidence derived therefrom shall be suppressed. The judge, upon the filing of such motion may in his discretion make available to the person or his counsel for inspection such portions of the information or material or evidence derived therefrom as the judge determines to be in the interests of justice.

"(e) If an emergency employment of electronic surveillance, mail opening, or surreptitious search and seizure is authorized under section 2525(d) and a subsequent order approving the employment of such technique is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States person subject to such technique as the judge may determine in his discretion it is in the interest of justice to service, notice of --

"(1) the fact of the application;

"(2) the period of the surveillance or mail opening or the date of the surreptitious search and seizure;

"(3) the fact that during the period or on that date foreign intelligence information or material was

-25-

or was not obtained. On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

"§2527 Report of certain investigative techniques.

"(a) In April of each year, the Attorney General shall report to the Administrative Office of the United States Courts and shall transmit to the Congress with respect to the preceding calendar year --

"(1) the number of applications made for orders and extensions of orders approving electronic surveillance, mail opening, and surreptitious search and seizure and the number of such orders and extensions granted, modified, and denied;

"(2) the periods of time for which applications granted authorized electronic surveillances and mail openings and the actual duration of such electronic surveillances and mail openings;

"(3) the number of such surveillances and mail openings in place at any time during the preceding year; and

"(4) the number of such surveillances and mail openings terminated during the preceding year.

"(b) Within seventy-two hours of the initiation of any electronic surveillance, mail opening, or surreptitious search and seizure, the target of which is an agent of a foreign power as defined in section 2521(b)(2)(D) of Chapter 120, the Attorney General shall, ~~under a written injunction of secrecy if necessary~~, report to the Select Committee on

-26-

Intelligence of the United States Senate and the Committee on the Judiciary of the Senate and the House of Representatives, and such committee or committees of the House of Representatives as the Speaker of such House of Representatives shall designate, or to such representatives as are designated by such committees, the facts and circumstances requiring such electronic surveillance, mail opening, or surreptitious search and seizure.

"(c) The Select Committee on Intelligence of the United States Senate is authorized to obtain such additional information as it may need to carry out its duties pursuant to Senate Resolution 400, 94th Congress, agreed to May 19, 1976, as such resolution may be extended as amended.

"(d) Any agency authorized to conduct signals intelligence on behalf of the United States Government shall report to the Select Committee on Intelligence of the United States Senate every ninety days of the number of instances of dissemination during such period of information which identifies a person which is not a foreign power derived from the acquisition of communications by electronic, mechanical, or other surveillance device not falling within the definition of electronic surveillance.

"§2528 Common carriers.

"No agency of the United States may request, directly or indirectly, any communication from any commercial carrier, if such communication would not be directly available to such agency except through electronic surveillance, unless such agency is authorized by a court order granted pursuant to this chapter or chapter 119 to obtain such communication or otherwise authorized by the Communications Act of 1934.

-27-

SEC. 3. The provisions of this Act and the amendment made hereby shall become effective upon enactment: Provided, That, any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of chapter 120, title 18, United States Code, if that surveillance is terminated or an order approving that surveillance is obtained under this chapter within sixty days following the designation of the first judge pursuant to section 2523 of chapter 120, title 18, United States Code.

SEC. 4. Chapter 119 of title 18, United States Code, is amended as follows:

(a) Section 2511(1) is amended --

(1) by inserting "or chapter 120 or as otherwise authorized by a search warrant or order of a court of competent jurisdiction," immediately after "chapter" in the first sentence;

(2) by inserting a comma and "or, under color of law, willfully engages in any other form of electronic surveillance as defined in chapter 120" immediately before the semicolon in paragraph (a).

-28-

(3) by inserting "or information obtained under color of law by any other form of electronic surveillance as defined in chapter 120" immediately after "contents of any wire or oral communication" in paragraph (c);

(4) by inserting "or any other form of electronic surveillance, as defined in chapter 120," immediately before "in violation" in paragraph (c);

(5) by inserting "or information obtained under color of law by any other form of electronic surveillance as defined in chapter 120" immediately after "any wire or oral communication" in paragraph (d); and

(6) by inserting "or any other form of electronic surveillance, as defined in chapter 120," immediately before "in violation" in paragraph (d).

"(b)(1) Section 2511(2)(a)(i) is amended by inserting the words 'or radio communication' after the words 'wire communication' and by inserting the words 'or otherwise acquire' after the word 'intercept.'

"(2) Section 2511(2)(a)(ii) is amended by inserting the words 'or chapter 120' after the second appearance of the word 'chapter,' and by striking the period at the end thereof and adding the following: 'or engage in electronic surveillance, as defined in chapter 120: Provided, however, That before the information, facilities, or technical assist-

-29-

ance may be provided, the investigative or law enforcement officer shall furnish to the officer, employee, or agency of the carrier either—

“(1) an order signed by the authorizing judge certifying that a court order directing such assistance has been issued, or

“(2) in the case of an emergency surveillance as provided for in section 2518(7) of this chapter or section 2525(d) of chapter 120, or a surveillance conducted under the provisions of section 2528 of chapter 120, a sworn statement by the investigative or law enforcement officer certifying that the applicable statutory requirements have been met,

and setting forth the period of time for which the surveillance is authorized and describing the facilities from which the communication is to be intercepted. Any violation of this subsection by a communication common carrier or an officer, employee, or agency thereof, shall render the carrier liable for the civil damages provided for in section 2520.’”.

“(c)(1) Section 2511(2)(b) is amended by inserting the words ‘or otherwise engage in electronic surveillance, as defined in chapter 120,’ after the word ‘radio.’

“(2) Section 2511(2)(c) is amended by inserting the words ‘or engage in electronic surveillance, as defined in chapter 120,’ after the words ‘oral communication’ and by inserting the words ‘or such surveillance’ after the last word in the paragraph and before the period.

“(3) Section 2511(6) is amended by adding at the end of the section the following provision:

“(e) It shall not be unlawful under this chapter

-30-

or chapter 120, or section 605 of the Commissions Act of 1934 for an officer, employee, or agent of the United States in the normal course of his official duty, to conduct electronic surveillance as defined in section 2521 (b)(2) of chapter 120, for the sole purpose of determining the capability of equipment used to obtain foreign intelligence or the existence or capability of equipment used by a foreign power or its agents: Provided, (1) That the test period shall be limited in extent and duration to that necessary to determine the capability of the equipment, and (2) that the content of any communication acquired under this section shall be retained and used only for the purpose of determining the existence or capability of such equipment, shall be disclosed only to the officers conducting the test, and shall be destroyed upon completion of the testing; and (3) that the test may exceed ninety days only with the prior approval of the Attorney General."

(d) Section 2511(3) is repealed.

"(e) Section 2515 is amended by inserting the words 'or electronic surveillance as defined in chapter 120, has been made' after the word 'intercepted' and by inserting the words 'or other information obtained from electronic sur-

-31-

veillance, as defined in chapter 120,' after the second appearance of the word 'communication'."

(f) Section 2518(1) is amended by inserting the words "under this chapter" after the word "communication".

(g) Section 2518(4) is amended by inserting the words "under this chapter" after both appearances of the words "wire or oral communication".

(h) Section 2518(9) is amended by striking the word "intercepted" and inserting the words "intercepted pursuant to this chapter" after the word "communication".

(i) Section 2518(10) is amended by striking the word "intercepted" and inserting the words "intercepted pursuant to this chapter" after the first appearance of the word "communication".

(j) Section 2519(3) is amended by inserting the words "pursuant to this chapter" after the words "wire or oral communications" and after the words "granted or denied".

"(k) Section 2520 is amended by deleting all before subsection (2) and inserting in lieu thereof: 'any person other than an agent of a foreign power as defined in section 2521(b)(2)(A) of chapter 120, who has been subject to electronic surveillance, as defined in chapter 120, or whose wire or oral communication has been intercepted, or about whom information has been disclosed or used, in violation of this chapter, shall (1) have a civil cause of action against any person who so acted in violation of this chapter and'."

-32-

SEC. 5. Section 2236 of title 18, United States Code is amended to read as follows:

"§2236. Searches without warrant.

"(a) Whoever, being an officer, agent, or employee, of the United States or any department or agency thereof willfully --

"(1) searches any private dwelling or any other building or property, without a warrant issued pursuant to the Federal Rules of Criminal Procedure or chapter 120 of title 18; or

"(2) opens any foreign or domestic mail not directed to him without a warrant authorizing such opening issued pursuant to the Federal Rules of Criminal Procedure, or chapter 120 of title 18, or without the consent of the sender or addressee of such mail shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

"(b) This section shall not apply to any person --

"(1) serving a warrant of arrest;

"(2) arresting or attempting to arrest a person committing or attempting to commit an offense in his presence, or who has committed or is suspected on reasonable grounds of having committed a felony;

"(3) making a search at the request or invitation or with the consent of the occupant of the premises;

"(4) making a search or opening mail under emergency circumstances pursuant to section 2525(e) of title 18; or

"(5) serving as a customs officer inspecting mail from outside of the United States.

-33-

SEC. 6. On or before March 1979, and on the first day of March of each year thereafter, the Select Committee on Intelligence of the United States Senate shall report to the Senate concerning the implementation of this chapter. Said reports shall include but not be limited to an analysis and recommendations concerning whether this chapter should be (1) amended, (2) repealed, or (3) permitted to continue in effect without amendment.

25X1

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

Next 6 Page(s) In Document Exempt

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM

<input type="checkbox"/>	UNCLASSIFIED	<input type="checkbox"/>	CONFIDENTIAL	<input type="checkbox"/>	SECRET
OFFICIAL ROUTING SLIP					
TO	NAME AND ADDRESS	DATE	INITIALS		
1	Exe Reg				
2					
3					
4					
5					
6					
<input type="checkbox"/>	ACTION	<input type="checkbox"/>	DIRECT REPLY	<input type="checkbox"/>	
<input type="checkbox"/>	APPROVAL	<input type="checkbox"/>	DISPATCH	<input type="checkbox"/>	
<input type="checkbox"/>	COMMENT	<input type="checkbox"/>	FILE	<input type="checkbox"/>	
<input type="checkbox"/>	CONCURRENCE	<input type="checkbox"/>	INFORMATION	<input type="checkbox"/>	
Remarks:					
FOLD HERE TO RETURN TO SENDER					
FROM: NAME, ADDRESS, AND PHONE NO.					DATE
<input type="checkbox"/>	UNCLASSIFIED	<input type="checkbox"/>	CONFIDENTIAL	<input type="checkbox"/>	SECRET

25X1

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

Next 3 Page(s) In Document Exempt

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

MEMORANDUM FOR: DDS and T

ER C-38.2
Base 1724
Executive Registry 77

77-3444/1

DDCI was concerned that this letter might not be a complete response because there was no reference to the purely geological aspects - tectonics, etc. - but only to problems concerning the use of imagery. If you feel that these aspects are so tied together that indeed the letter is a complete reply, please drop him a word of explanation. If his point is well taken, could you have your staff do a re-write?

Thanks for the trouble.

[Redacted Signature]

A/DDCI

Date 18/3/77

FORM 101 USE PREVIOUS EDITIONS

STAT

C-38.2

EXECUTIVE SECRETARIAT

Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	D/DCI/IC				
4	DDS&T	✓			
5	DDI				
6	DDA				
7	DDO				
8	D/DCI/NI				
9	GC				
10	LC				
11	IG				
12	Compt				
13	D/Pers				
14	D/S				
15	DTR				
16	Asst/DCI				
17	AO/DCI				
18	C/IPS				
19	DCI/SS				
20	D/EE0				
21					
22					
SUSPENSE		Date			

Remarks:

Per Mr Knoche's request of you at this morning's Staff Meeting. OLC has a cy.

	UNCLASSIFIED		CONFIDENTIAL *		SECRET
--	--------------	--	----------------	--	--------

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

EXECUTIVE SECRETARIAT

Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	D/DCI/IC				
4	DDS&T				
5	DDI				
6	DDA				
7	DDO				
8	D/DCI/NI				
9	GC				
10	LC		✓		
11	IG				
12	Compt				
13	D/Pers				
14	D/S				
15	DTR				
16	Asst/DCI				
17	AO/DCI				
18	C/IPS				
19	DCI/SS				
20	D/EE0				
21					
22					
SUSPENSE		Date			

Remarks:

ADCI has original

Executive Secretary

19 Feb
Date

3637 (7-76)

STAT

C-38.2

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

STAT

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

3/18/77

R7190

CENTRAL INTELLIGENCE AGENCY

CIA

SUGGESTED QUESTIONS

COPY 3 OF 5
No. OF PAGES 11

General

1. There have been a number of changes in the Intelligence Community management structure in the recent past.

-- What effect have such changes, like E. O. 11905, had on your operations and management arrangements within the Community?

DDCI-- Q&A #1.

-- What impact did the Committee of Foreign Intelligence have on your FY 1978 budget request?

25X1

In DCI speech -- CFI/OMB/Presidential review reduced it from

-- In your view what are the principal strengths and weaknesses in these new management arrangements?

DCI and/or DDCI -- personal opinion.

2. Intelligence activities, and their resource requirements, should be driven by policymakers' information needs.

-- In your view, what are the principal strengths and weaknesses in current mechanisms for setting requirements and establishing priorities?

DCI and/or DDCI -- personal opinion.

-- Could you give some specific examples of how requirements and priorities influenced resource considerations in formulating your FY 1978 budget?

-- Are there any priority national concerns going uncovered because of resource constraints?

DCI or DDCI No, but some get less attention; and lower priority concerns suffer

3. The Agency receives some [] annually, 25X1

in addition to its regular appropriations, from other

government agencies in the form of transfers and reimbursements.

-- What statutes and limitations govern these transactions?

-- What is the difference between transfers and reimbursements? Do the same controls and limitations apply to both?

25X1

25X1

Comptroller -- authority cited in budget book, page II-3.

Advances -- [] reimbursements less than []

TOP SECRET

25X1

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

ANTICIPATED QUESTIONS
FOR
CONGRESSIONAL HEARINGS

25X1

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM					
UNCLASSIFIED		CONFIDENTIAL		SECRET	
OFFICIAL ROUTING SLIP					
TO	NAME AND ADDRESS		DATE	INITIALS	
1	Director of Central Intelligence				
2					
3					
4					
5					
6					
ACTION		DIRECT REPLY		PREPARE REPLY	
APPROVAL		DISPATCH		RECOMMENDATION	
COMMENT		FILE		RETURN	
CONCURRENCE		INFORMATION		SIGNATURE	
Remarks: <u>FOR TUESDAY AND WEDNESDAY</u> <p>Attached is a list of the questions prepared for the members of the Senate Select Committee by the Committee staff. We have annotated it to suggest who might handle the answers. You will note references to something called "Q and A." This refers to our Q and A book of which a copy is also attached.</p>					
<div style="border: 1px solid black; width: 200px; height: 50px; margin-bottom: 5px;"></div> <div style="display: flex; justify-content: space-between;"> <div> TURN TO SENDER PHONE NO. James/H. Taylor, Comptroller </div> <div> DATE 3/21/77 </div> </div>					
UNCLASSIFIED		CONFIDENTIAL		SECRET	

FORM NO. 1-67 237 Use previous editions

(40)

XR 177-6860

C-38.2

COMPT 77-0442

DDCI, 7E12 Hqs

It is important that no more time elapse prior to the satisfaction of this request and in any event prior to the Hearings. Therefore, if you have no problem with what we are doing, would you approve having it forwarded to OLC for immediate processing.

Hank:

On 3 March 1977, Dan Childs requested that we update the materials that the Senate Select Comm. had from the Church Committee on CIA covert action. Specifically, he wanted both 1977 and 1978 funding data, the current status of each activity, and a statement of the Presidential Findings or other authorities under which each was being conducted. Childs was asked to put this request in writing. You received a letter (copy attached) from Bill Hathaway dated 4 March.

The materials have been prepared by DDO and are attached under a letter from Admiral Turner to the Senator. It is our understanding that this agrees with the Admiral's desired procedures for sending correspondence to Congress. (Over)

James H. Taylor, Comptroller

Distribution:

Original - DDCI, w/att
1 - ER
1 - Compt Chrono
1 - Compt Subj
1 - AC/Res

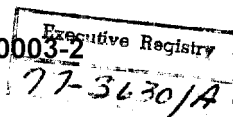
C-38.2

The Director

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2



Washington, D. C. 20505



Compt 77-0449

C.38.2

18 MAR 1977

Honorable William D. Hathaway, Chairman
Subcommittee on Budget Authorization
Select Committee on Intelligence
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Enclosed, in response to your request of 4 March 1977, is the updated material related to CIA's covert action activities originally discussed by Mr. D. Childs with members of my Comptroller staff.

I would be remiss if I did not indicate to you the increased uneasiness I have regarding the continued provision of ever-increasingly detailed information on some of CIA's most sensitive activities. I note this uneasiness only to reinforce what I am sure is your own concern that every effort be made to protect this information and prevent public disclosure.

As you know, we will be appearing before the Committee soon, and I look forward to seeing you then.

Yours,

/s/ Stansfield Turner

STANSFIELD TURNER
Admiral, U.S. Navy

Enclosure

Distribution:

Orig - Add'l, w/att

1 - DCI, wo/att

1 - DDCI, wo/att

1 - OLC, wo/att

1 - ER, wo/att

STAT

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

SECRET

STAT

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

C-38.2
3630
Executive Registry

77-3630/1

OLC 77-0804/A
March 10, 1977

Honorable William D. Hathaway, Chairman
Subcommittee on Budget Authorization
Select Committee on Intelligence
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

I have your letter to Mr. Knoche of March 4, 1977 (R#6682) regarding the Subcommittee review of CIA's covert action activities. My staff is now looking into this matter, and we will respond as soon as appropriate Agency offices have been consulted.

Sincerely,

SIGNED

George L. Cary
Legislative Counsel

C-38.2
EXHIBIT 100-10321
Distribution:

Orig - Addressee ☒ - ER
1 - C&R Staff
1 - OLC Subject
1 - OLC Chrono

STAT OLC: [] (10 March 1977)



DANIEL K. ROOYE, HAWAII, CHAIR
JAKE GARN, UTAH, VICE CHAIR

BIRCH BAYM, INLA
ADLAI E. STEVENSON, ILL.
WILLIAM D. HATHAWAY, MAINE
WALTER D. HUDDLESTON, KY.
JOSEPH R. BIDEN, JR., DEL.
ROBERT MORGAN, N.C.
GARY HART, COLO.

CLIFFORD P. CASE, N.J.
STROM THURMOND, S.C.
MARK O. HATFIELD, OREG.
BARRY GOLDWATER, ARIZ.
ROBERT T. STAFFORD, VT.
CHARLES MCC. MATHIAS, JR., MD.

WILLIAM G. MILLER, STAFF DIRECTOR

United States Senate

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 400, 94TH CONGRESS)

WASHINGTON, D.C. 20510

March 4, 1977

IN REPLY PLEASE

REFER TO R# 6682

Mr. E. Henry Knoche
Acting Director
Central Intelligence Agency
Washington, D. C.

Dear Mr. Knoche:

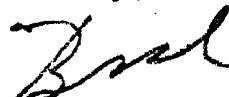
As you know, the Budget Subcommittee of the Select Committee on Intelligence is currently undertaking a comprehensive review of the Intelligence Community's FY 1978 budget request.

We are now in the process of reviewing CIA's covert action activities. The material contained in your budget request does not permit the detailed review of these activities that is required. The Committee would appreciate your providing supplemental material for these activities on a project basis.

Members of the Committee staff have discussed this requirement with representatives of your Comptroller staff and they are aware of the type of information that we desire. In essence, the material requested is an update of material previously provided the Committee

Thank you for your continued cooperation and assistance. It will greatly facilitate the Committee's budget authorization process.

Sincerely,



William D. Hathaway
Chairman
Subcommittee on
Budget Authorization

EXECUTIVE SECRETARIAT

Routing Slip

TO:		ACTION	INFO	DATE	INITIAL
1	DCI		✓		
2	DDCI		✓		
3	D/DCI/IC		✓		
4	DDS&T				
5	DDI				
6	DDA				
7	DDO				
8	D/DCI/NI				
9	GC				
10	LC	✓			
11	IG				
12	Compt		✓		
13	D/Pers				
14	D/S				
15	DTR				
16	Asst/DCI				
17	AO/DCI				
18	C/IPS				
19	DCI/SS				
20	D/EE0				
21					
22					
SUSPENSE		Date			

Remarks:

STAT

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

SENDER WILL CHECK CLASSIFICATION ON TOP AND BOTTOM			
UNCLASSIFIED		CONFIDENTIAL	
OFFICIAL ROUTING SLIP		Executive Registry	
		77-3756/2	
TO	NAME AND ADDRESS	DATE	INITIALS
1	DDCI		
2			
3	<i>Hank</i>		
4	<i>For Turner, J. Edgar</i>		
5	<i>Mr. DeLoach</i>		
6			
ACTION		DIRECT REPLY	PREPARE REPLY
APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE
Remarks: Attached for your information is a copy of paper with changes which the Director has made and which have been given to the White House. <div style="text-align: right;">George L. Cary</div> cc: D/DCI/IC			
FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.			DATE
Legislative Counsel			3/17/77

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

STAT

STAT

STAT

GLC

TALKING POINTS FOR MEETING WITH SENATOR INOUE AND
MEMBERS OF THE SENATE SELECT COMMITTEE ON INTELLIGENCE

Friday, March 18, 1977
1:30 p.m.

Introductory Remarks

- STAT
1. Stan Turner and I are very pleased to have this opportunity for informal consultations on the arrangements the Executive Branch has for reporting on intelligence matters to the Congress.
 2. Frederick Baron of the Attorney General's staff and of my staff are with us today.
 3. As Director of Central Intelligence, Admiral Turner is giving very careful review to control of intelligence information in the Executive Branch.
 4. The President believes as I do that the United States must have a fully effective intelligence program in keeping with our national security interests.
 5. At the same time, we want to ensure the correctness and legality of that program, we want to ensure correct dissemination and control of intelligence in the Executive, and we want to ensure appropriate accountability to the Congress.

C-36.2-1

Existing Situation in the Congress

1. The Congress has constitutional responsibilities to assure that the Intelligence Community is appropriately subject to the Congressional powers of appropriations, legislation, and oversight.
2. Further, the product of the Intelligence Community should be available, through briefings of committees, etc., to meet the informational needs of the Congress.
3. But in the process of overseeing and in receiving the classified intelligence product, sensitive intelligence ^{SOURCES} means must be protected in the interest of maintaining an effective intelligence program.
4. For example, for CIA alone, seven committees are involved in the oversight process. Four in the Senate and three in the House:
Senate Select Committee on Intelligence, Armed Services Committee, Appropriations Committee, and Foreign Relations Committee, and, in the House, the Armed Services, Appropriations, and International Relations Committees. *THIS NORMALLY INVOLVES ABOUT 64 MEMBERS PLUS STAFF*
5. Moreover, additional committees throughout the Congress have a right to get involved in any intelligence activity affecting a matter within their jurisdiction.
6. Aside from overlapping committee jurisdiction, ^{House} Rule XI authorizes every House Member to read the records of the oversight committees and to attend their hearings.

7. Further, there is a constant ^{SENIAL} push on behalf of personal, as opposed to committee, staffers for access to compartmented substantive intelligence briefings, which would proliferate exposure to sensitive collection sources and methods.
8. In sum, intelligence is a precious commodity. Its final product should be shared with the Congress. Its activities should be subject to Congress' constitutional responsibilities. But it cannot survive if it is treated routinely, as if it were dealing with the Department of Agriculture.

Issues Requiring Attention of the Congress

1. The Congress must itself decide how best to organize and what procedures to adopt so as to carry out Legislative Branch responsibilities in the field of intelligence.
2. In these informal consultations today, I want candidly to mention three areas of concern to use as we consider possible improvements in Executive-Legislative procedures:

-- Number of Oversight Committees: We think seven committees is too many. One Joint Committee or a House Select Committee paralleling the Senate

Select Committee would be preferable *with either the joint committee or the two intelligence committees having more exclusive jurisdiction over sensitive sources & methods than now exists.*

- Protection of Sources and Methods: This is an extremely sensitive area and procedures must be worked out which on the one hand would permit, for example, the protection of agent names and identifying information on intelligence services of friendly or neutral countries which collaborate with us, but at the same time, assure that committees with oversight responsibility have the details necessary for a proper understanding of intelligence activities.
- Third, Rules on Security and Access will require careful attention if both executive and legislative are to be satisfied that handling and control of sensitive intelligence documents and information is adequate.

3. I think it would be useful if Stan Turner were to comment on these points and any others that might usefully guide us in these consultations.

Turner Remarks

1. I personally welcome close and effective Congressional oversight. It keeps us on our toes. It also is one of the best ways to get needed public support for intelligence by giving credit, where due, and assuring the public, where needed, that their interests are being continually looked

after. We can also do much more to satisfy the informational needs of the Congress, *WHILE CONCURRENTLY FULFILLING OUR RESPONSIBILITY* *20*
~~as long as we recognize that the executive is ~~our~~~~
~~primary customer.~~ Making sure that Congress gets the information from us that it needs is an important way to get a further return on the public's investment in intelligence.

2. The oversight structure should be a further projection of our country's will and ability to protect sensitive operational

details.

- *SO FAR WE HAVE NOTHING TO COMPLAIN ABOUT AND MUCH TO PRAISE IN THE RESPONSIBLE MANNER YOUR COMMITTEE HAS*
-- The past period of investigations and dis- *ACTED TO PROTECT*
closures have eroded our credibility to *THAT WHICH SHOULD BE*
protect sources. This is a very serious *PROTECTED*
problem where the anonymity of association is a condition precedent to cooperation.
- The fact that foreign intelligence activities are not within the scope of parliamentary inquiry in *MANY OTHER* countries also shapes the perspective of those foreigners who cooperate with us with the understanding that their identity will be protected.

- Concern about our ability to live up to our commitments on protection of identities is heightened by having seven committees, with some 60 Members and 15 staff briefed on sensitive covert action.
- These facts contribute to an impression that our house is out of order and that anyone who cooperates must carefully consider the increased risk of exposure.

Joint Committee

1. First choice would be a single Joint Committee. Features of such a committee which would enhance the projection of our credibility for protecting sensitive operational sources:

- Exclusive jurisdiction for legislation and related oversight.
- Exclusive authority to investigate intelligence activities.
- Exclusive recipient in the Congress of sensitive operational details, including covert action reporting.
- Sensitive information provided to the Committee would not be available to non-Members.
- Strict rules for the secure handling of information within the Committee, and security clearances and security agreements with Committee staff personnel paralleling what has been established in your Committee.

- See next page*
- Express representation on the committee(s) from Foreign Affairs, Appropriations and Armed Services.
 - Provisions for periodic rotation of membership.

2. Committee Membership should serve as the surrogates for the legitimate interests of other committees and for a fairly broad political perspective within the Congress.
3. The Appropriations Committees of both Houses would still be required to appropriate money from the Treasury to support intelligence activities. To the extent that this is necessary, rules such as House Rule XI should be modified to limit access to the sensitive information provided to justify the budget solely to the Members and staff of the Appropriations Subcommittees involved.
4. Abuses - ~~If there is an allegation about intelligence abuse,~~
the Committee should ~~investigate and take appropriate action~~
by:
 - ~~Requiring the Committee~~ *Ed* to investigate any complaint it receives from any Member or committee, and *To*
 - ~~Making~~ *ε* the record of its findings available to the appropriate leadership of the Congress.

This procedure would help assure the complaining Member or committee that appropriate action has been taken without requiring in the process either disclosure or confirmation of sensitive operational details outside of the committee or the leadership.

5. Legislation - When legislation which may inadvertently impair sensitive lawful intelligence activities is considered by another committee, the Joint Committee should be used as the conduit for understanding the problem and seeking an appropriate remedy with the other committee but by using the investigative and fact-finding resources of the Joint Committee to assure that the problem is real and the remedy sound. Again, the record could be made available to appropriate leadership outside the committee, but the sensitive details would be preserved from public disclosure or confirmation.

6. ~~Fully and currently informed~~: The concentration of oversight in one committee increases the importance of insuring that the committee be kept fully and currently informed.

6. Unusually sensitive information is deserving of special protective procedures. They should help prevent the risk of disclosure while assuring the committee all the details necessary to properly understand all matters. The procedure could permit deletion of unusually sensitive information from documents transmitted to the committee. The deleted information could be paraphrased. Where necessary the procedures could, hopefully on a compartmented and limited basis, permit access to the information without transmittal of the documents to the Congress. Examples of information in this sensitive category would be:

- Agent or informant names or operational information revealing them.
- Names of particular employees whose physical safety or future careers might be placed in jeopardy by exposure.
- Assumed identities, locations or other information permitting identification of defectors or refugees who might be targeted for retaliation.
- Identifying information on intelligence services of friendly and neutral countries who collaborate with U.S. intelligence agencies.
- Identification of technical foreign intelligence operations of high vulnerability or extremely high political sensitivity.
- Specific information on special relationships with private firms established with the approval of top corporate officials.

House Select Committee

Our fallback if a Joint Committee with all its advantages is not achievable in the near future would be the establishment of a committee in the House paralleling your Committee.

- Need to achieve concentration of exclusive oversight in that committee and rules changes against proliferation of sensitive information beyond that committee or the Appropriation Subcommittee which would consider budget requests.
- To concentrate covert action reporting under Hughes-Ryan Amendment that law would have to be repealed or amended.
- In the aftermath of STAT
we got signals from both the Senate Foreign Relations Committee and the House International Relations Committee supporting covert action reporting in one committee, assuming that designees on the committee receiving the report would be watchful for foreign relations interests and perhaps that the Chairman and Ranking Minority Member of the foreign relations committees could sit in on the briefing.

Other Changes to Improve Security

1. Congressional Staffers

- Access to sensitive briefings and materials should be governed by uniform rules and the number of Congressional staffers exposed to such information should be reduced to the absolute minimum necessary.
- The need-to-know principle is as important to apply to the Congress as it is within the executive. We need Congressional support on the concept that only committee staffers may sit in on committee briefings where sensitive material is covered or have access to material after the fact.
- The rules of the Senate Select Committee on Intelligence spelling out procedure on non-disclosure, security oaths, and tight control on paper flow would be good examples to follow.

2. Maintaining a record in the Congress on sensitive briefings has also been a problem because of the availability of the record to other Members and the loosening of security as the information proliferates.

- One solution is not to maintain a record within the Congress of such sensitive material, but that creates a dilemma in the event there is disagreement on what was said.
- Another solution would be to have the information authenticated for the record by both the committee and the Executive Branch, and retained in the Executive Branch. This would create a new category of documents which technically constitutes neither committee records (thus being unavailable to other Members under House Rule XI) nor Agency records subject to FOIA request.

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM

UNCLASSIFIED Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

OFFICIAL ROUTING SLIP

Executive Registry

77-3756/1

TO	NAME AND ADDRESS	DATE	INITIALS
1	Commander McMahon		
2			
3			
4			
5			
6			

<input type="checkbox"/> ACTION	<input type="checkbox"/> DIRECT REPLY	<input type="checkbox"/> PREPARE REPLY
<input type="checkbox"/> APPROVAL	<input type="checkbox"/> DISPATCH	<input type="checkbox"/> RECOMMENDATION
<input type="checkbox"/> COMMENT	<input type="checkbox"/> FILE	<input type="checkbox"/> RETURN
<input type="checkbox"/> CONCURRENCE	<input type="checkbox"/> INFORMATION	<input type="checkbox"/> SIGNATURE

Remarks:

These are the proposed talking points for Admiral Turner's session on Friday with Chairman Inouye. They have also been sent to Denis Clift, in the Vice President's office.

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.

DATE

Deputy Legislative Counsel

17Mar77

UNCLASSIFIED

CONFIDENTIAL

SECRET

FORM NO. 1-67

237

Use previous editions

(40)

C 38.2

STAT

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2

Next 11 Page(s) In Document Exempt

Approved For Release 2006/01/30 : CIA-RDP80M00165A000600130003-2